

**REMARKS**

Claims 1, 22 and 24 have been amended. Claim 5 has been cancelled. Claim 43 has been added. Claims 1, 4, 22-24 and 43 are pending and under consideration. Claims 1, 22 and 43 are the independent claims. No new matter is presented in this Amendment.

**REJECTIONS UNDER 35 U.S.C. §112:**

Claims 1, 4, 5, 22, 23 and 24 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding the rejection of independent claim 22, the Examiner states that the phrase "location information" is unclear and cannot be understood since it does not indicate the location of something. Applicants respectfully traverse this rejection for the following reason. Claim 22 recites a controller that controls the recording and/or reading unit to record location information, regarding an area in which the temporary management information is recorded, in an access information area of the write-once disc. In other words, the location information is information of an area in which the temporary management information is recorded. Therefore the claim clearly recites the location information of something, and in the instant case, the location information of an area in which the temporary management information is recorded.

Independent claim 1 recites an access information area in which location information is recorded, said location information regarding an area in which the temporary management information is recorded. Accordingly, claim 1 also recites the location information of something.

Accordingly, Applicants respectfully assert that claims 1 and 22 clearly point out and distinctly claim the subject matter regarded as the invention, and thereby request that the rejection of independent claims 1 and 22 be withdrawn. Furthermore, Applicants respectfully assert that claims 4, 5, 23 and 24 were rejected due to their dependency from claims 1 and 22. Accordingly, since claims 1 and 22 fully comply with the requirements of 35 U.S.C. §112, second paragraph, Applicants request that the rejection of claims 4, 5, 23 and 24 be withdrawn, at least, due to their dependency from claims 1 and 22.

**DOUBLE PATENTING:**

Claims 1 and 22 are provisionally rejected on the ground of nonstatutory obviousness-

type double patenting as being unpatentable over the independent claims of copending Application Nos. 12/173,341, 12/113,398, 12/116,279, 12/116,436, 12/035,721, 12/035,700, 12/039,969, 12/976,101, 11/968,740, 11/866,622, 11/852,700, and 11/430,084.

Since claims 1 and 22 of the instant application have not yet been indicated as allowable, it is believed that any submission of a Terminal Disclaimer or arguments as to the non-obvious nature of the claims would be premature (see MPEP 804).

As such, it is respectfully requested that Applicants be allowed to address any provisional obviousness-type double patenting issues remaining once the rejections of the claims under 35 U.S.C. §§112 and 103 are resolved.

**REJECTIONS UNDER 35 U.S.C. §103:**

Claims 1, 4, 5 and 22-24 are rejected under 35 U.S.C. §103(a) as being unpatentable over Shin (U.S. Patent No. 6,529,458) further in view of Takahashi (U.S. Patent Application Publication No. 2002/0150010).

Regarding the rejection of independent claim 1, it is noted that claim 1, recites, amongst other novel features, a write-once disc with at least one record layer, comprising: at least one temporary defect management area in which temporary defect information and temporary defect management information are recorded, said temporary defect information comprising position information of a defect area and position information of a replacement area for replacing the defect area, and said temporary defect management information comprising a pointer indicating an area in which the temporary defect information is recorded.

The Office Action relies on Shin for a teaching of an optical disc including at least one temporary defective management area in which temporary defect information and temporary defect management information are recorded. In particular, the Office Action relies on the defective management areas, DMA 1, DMA 2, DMA 3 DMA 4, illustrated in FIG. 5 and in step 607, illustrated in FIG. 6 for such teachings.

Shin however, discloses in step 607 writing data about a defective block at a position in the user/data area designated by the write command and thereafter writing positional information of the defective blocks to particular positions within the data area (column 5, lines 66-67 and column 6, line 1). That is, step 607 simply teaches recording replacement data on a disc and writing positional information of the defective blocks in the data area. However, as noted above,

independent claim 1 not only provides position information of a defect area but also provides position information of a replacement area replacing the defect area. Therefore, by providing the additional information, the access time of the disc is reduced. Accordingly, Applicants respectfully assert that Shin fails to teach or suggest this novel feature of independent claim 1.

Independent claim 1 also recites that said temporary defect management information comprises a pointer indicating an area in which the temporary defect information is recorded. The Office Action once again relies on Figs. 5 and 6 of Shin for a teaching of the pointer. However, as noted above, Shin does not teach or suggest a pointer but rather simply teaches positional information of the defective blocks. As a matter of fact, nowhere in the specification does Shin teach or suggest a pointer, and in particular, a pointer indicating an area in which temporary defect information is recorded. Accordingly, Applicants respectfully assert that Shin also fails to teach or suggest this novel feature of independent claim 1.

Independent claim 1 also recites an access information area in which location information regarding an area in which location information regarding an area in which the temporary management information is recorded. The Office Action relies on the lead-in area, the data area and the lead-out area of Shin for a teaching of the access information area. However, there is no teaching or suggestion in Shin that any of these areas constitute an access information area. Accordingly, Shin fails to teach or suggest such novel feature.

The Office Action also recognizes that Shin does not teach or suggest position information of a defect area and position information of a replacement area. Therefore, the Office Action relies on Takahashi for such teachings and states that Takahashi teaches position information of a defective and a replacement area.

However, Applicants respectfully note that although Takahashi teaches managing information representing a position of a predetermined defective area and information representing a position of a predetermined replacement area (paragraph [0129], this managing information is provided in a defect management area, and not in a temporary defect management area, as recited in the independent claim. In other words, Takahashi simply teaches a defect management area similar to the one taught by Shin and thus does not provide any suggestion of an additional area, in the instant case of an access information area. Therefore, Applicants respectfully assert that Takahashi fails to teach the features for which it is relied for and thus fails to cure the deficiencies of Shin.

Regarding the rejection of independent claim 22, it is noted that claim 22 recites some

substantially similar features as claim 1. Thus, the rejection of this claim is also traversed for the reasons set forth above.

Accordingly, Applicants respectfully assert that the rejection of claims 1 and 22 under 35 U.S.C. § 103(a) should be withdrawn because neither Shin nor Takahashi, whether taken singly or combined, teach or suggest each feature of independent claims 1 and 22.

Furthermore, Applicants respectfully assert that the rejection of dependent claims 4-5 and 23-24 under 35 U.S.C. §103(a) should be withdrawn at least because of their dependency from claims 1 and 22, respectively and the reasons set forth above, and because the dependent claims include additional features which are not taught or suggested by the prior art. Therefore, it is respectfully submitted that claims 4-5 and 23-24 also distinguish over the prior art.

**CONCLUSION:**

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 503333.

Respectfully submitted,

STEIN MCEWEN, LLP

Date: 4/7/09

By: Douglas X. Rodriguez  
Douglas X. Rodriguez  
Registration No. 47,269

1400 Eye St., NW  
Suite 300  
Washington, D.C. 20005  
Telephone: (202) 216-9505  
Facsimile: (202) 216-9510